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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,888	12/07/2005	Josef Zelger	CO00022898	2828
324	7590	01/24/2011	EXAMINER	
BASF Corporation			ASD/ODL, MOHAMMAD REZA	
Patent Department			ART UNIT	
500 White Plains Road			PAPER NUMBER	
P.O. Box 2005			1763	
Tarrytown, NY 10591			NOTIFICATION DATE	
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			01/24/2011	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/559,888

**Applicant(s)**

ZELGER ET AL.

**Examiner**

M. REZA ASDJODI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-040)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

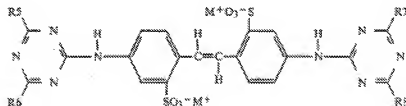
**DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

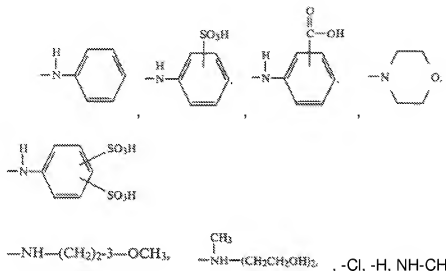
Claims 1-2, and 4-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrin et al. (US 5,057,236) in view of Brouwer (5,714,450) and applicants' admission of prior art.

Regarding claims 1-2, 4-12, and 14-16, Petrin et al. teach the storage stable (3: 57-62) CC/DAS brighteners (fluorescent whitener) of the class (mono- or polysulfated) phenyl-, triazinyl stilbenes of structure below; [4: 45-67, 5: 1-24, 3: 60],



Wherein M= H, Na, K, or Li; and each of R5, R6, R7, and R8 are independently selected from the substituents

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(alkyl)<sub>2</sub> or -NH-alkyl, and  $\text{NH}_2$  (as stated in the claim); wherein the alkyl group contains from 1-8 carbon atoms. The structure above satisfies the structural limitation of instant claims, and selected species (where R8 is morpholino), completely. Petrin et al. teach electrolytes such as sodium hydrogen carbonate, sodium carbonate, and sodium phosphate by the amount of 0-50%; [15: 55-58], anionic poly saccharide such as xanthan gum or guar gum by the amount of 0-50%; [15: 36-37], dispersants such as anionic or nonionic surfactants (ammonium sulfosuccinate, polyacrylate, or polymaleates) by effective (desired) amount; [15: 1-3, 65-68], adjunct (or optional) ingredients such as dyes, foam booster, and pigments by the amount of 0-20%; [15: 6-11, 20: 60-64], and water to make up the rest of composition to 100%; [17: 6].

Regarding claim 1, Petrin et al. do not teach the M group in formula 1 as being mono, di, tri or tetra C1-C4 alkylammonium or mono and di or tri C2-C4 hydroxy-alkylammonium. However, applicants' admission of prior discloses that these dye compounds are already known (available in the market); [0046]. At the

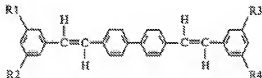
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time of invention, it would have been obvious to a person of ordinary skill in the art to select the known dye ingredient as a functional equivalent ingredient.

Regarding claims 1, 2, 4, and 14, Pertin et al. do not teach the claimed range of fluorescent whitening agents. However, Brouwer et al. teach a detergent composition with similar fluorescent whitening agents (23: 10-12) with detergent concentration of 1-90%, wherein the ratio of surfactant/whitener is from 5:1 to 2:1; [24: 65-67]. This renders the claimed whitener's concentration range obvious. At the time of invention, it would have been obvious to a person of ordinary skill in the art to utilize a higher concentration of fluorescent whiteners with the motivation of enhancing the whitening efficacy of the cleaning composition as evidenced by Brouwer.

With respect to claims 1, and 14, Petrin et al. teach at least one further fluorescent whitener, of given structure of formula (2), by the amount of 0.001-5%; [4: 45-67, 3: 60].

Regarding claim 13, Petrin et al. teach one further fluorescent whitener of formula (3) of instant claim, wherein R1, R2= SO<sub>3</sub>M, and R2, R4= R10, R11= H; [4: 15-35].



Regarding claims 17-18, Petrin et al. teach a method, or process, of preparing a storage stable fluorescent whitener, and detergent formulation,

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comprising mixing the moist centrifuged slurry (cake) with the other ingredients such as water and polysaccharides; [8: 51-68, 9: 1-10, 14: 65-68, 15: 1-40].

### ***Response to Arguments***

Applicant's arguments filed 11/18/10 have been fully considered but they are not persuasive. Because: opine

A- In response to applicant's argument (page 7) that: "Brouwer teaches a detergent composition with similar FWAs in detergent composition of 1-90%.....", it is noted that: applicant appears to have misunderstood the statement of the rejection. The fact that Brouwer is teaching a total detergent (=anionic, nonionic, zwitterionic.....surfactants) amount of 1-90% is a simple arithmetic mean of arriving at the whitener's amount or concentration range (as claimed by the instant claim 10-60%) and it is not related to the amount of anionic polysaccharide, as apparently construed by applicant.

B- In response to applicant's argument (pages 8-9) that the references fail to show certain features of applicant's invention, it is noted that: I)- the features upon which applicant relies (i.e., Pertin's ion-pair having poor physical stability) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). II)- Pertin clearly teaches that their composition is an optical brightener which is quite stable in spite of presence of bleach which, at times, could be counter productive toward action of dyes and brighteners. This is not the case for Pertin's composition and its teachings.

C- In response to applicant's argument (pages 10-11) that: "Brouwer teaches a powder detergent containing discrete whitening agent particles.....and it is directed to powdered detergents only, and there is no mention of optical brighteners in aqueous formulation", it is noted that: the question of state of formulation is not a persuasive one for the following reason(s). I)- Brouwer, in principle has rendered the question of brightener concentration obvious as stated previously. II)- The applicant's alleged reasoning for difference(s) between state of product (i.e. liquid or solid), is contrary to chemical evidence, and has no bearing on the amounts of delivered composition to a fabric as whole, nor on its individual components, as being delivered to a process medium. These products are basically, and initially, manufactured in solid state or liquid state by simply being dissolved in water. III)- This fact is indeed, and also, admitted by applicant on page 20 (lines 10-15) of specification. IV)- As a result, whether the product is in liquid state or solid one, there will be no fundamental difference in term of their efficacy for intended uses and applications. This is quite well known in the art, as is further evidenced by Fringeli et al. (US 4,339,238).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory

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action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Reza Asdjodi whose telephone number is (571)270-3295. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic



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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton I. Cano/  
Supervisory Patent Examiner, Art Unit 1763

/M. R. A./  
Examiner, Art Unit 1796  
01/15/11